

Remarks

Claims 1 - 33 remain pending. Reconsideration of the rejections at an early date is requested.

Claims 1-6, 11-22 and 27-33 were rejected under 35 U.S.C. 103(a) as being unpatentable over Nicolas (U.S. Publication No. 2004/0252816) in view of LaMedica, Jr. (U.S. Patent No. 7,024,161). Claims 7-10 and 23-26 were rejected under 35 U.S.C. 103(a) as being unpatentable over Nicolas in view of LaMedica, Jr., and further in view of Nakamura (U.S. Patent No. 5, 943, 617).

The examiner's objections appear to be based on a misapplication of Nicolas. Specifically, the examiner argues that all of the features of claim 1 are disclosed by Nicolas, save for the requirement that the queries concern the expected output of the test data by the mobile device. However, the analysis in this regard seems to miss an important distinction. In particular, there are three forms of data required by claim 1: "test data", "query data" and "response data". The examiner argues that each of these can be found in Nicholas. However, it is notable that the examiner cites the same section of Nicolas as anticipating the "test data" and the "query data". The examiner states explicitly that "the test data is mapped to the 'software programme' and the 'survey questions'", but does not explicitly state what aspect of Nicolas is mapped to the query data. It cannot be that the same features of Nicolas anticipate both the test data and the query data, as these are distinct elements in the present claims. In particular, the claims require that the query data contains queries that concern the expected output of the test data. If these two types of data were in fact one and the same then this aspect of the claim would be self-referencing and nonsensical.

Indeed, this distinction reflects the completely different modes of operation of Nicolas and the present invention. As reflected in claim 1, in the present invention two sets of data are initially provided, one to the mobile device and one to a user interface. In contrast, Nicolas provides a single set of data to the mobile device only, with no separate set of data being provided to a user interface. While we note that the data transmitted to the mobile device in Nicolas could be sub-divided into different functional categories (the programme, the survey questions, etc.), this simply does not represent two separate types of data, such as the test and query data required by claim 1, one of which is transmitted over a mobile network to a mobile device and one of which is delivered to a user interface.

Given that Nicolas does not describe query data that is separate to the test data, it is simply not possible to modify the teaching of this document as the examiner suggests (i.e., so that the query data contains queries concerning the expected output of the test data by the mobile device). However, even if it were, the person of ordinary skill in the art would find no teaching in this regard in LaMedica. In particular, LaMedica also fails to disclose query data which includes queries concerning the expected output of the test data by the mobile device. Instead, LaMedica relies upon the provision of specialized apparatus to analyze the display of the mobile device and return these details to a base station. In this arrangement, there are no queries provided to a user interface.

Finally, we note the examiner's statement that "it would have been obvious to one of ordinary skill in the art to be motivated to implement the surveying method of Nicolas after modifying it to incorporate the ability to question the expected output of a wireless device". It seems that the examiner is arguing here that the alteration of the survey questions such that they related to the performance of the mobile device would lead inexorably to the present invention. However, this is not the case. In particular, the survey questions are characterized by the examiner as the test data, not the query data, so such an alteration would in fact lead away from the present invention. More generally, such an alteration would not lead to a situation in which two sets of

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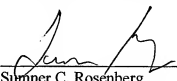
data are separately provided - a first set of data (the test data) delivered to a mobile device for display on that device and a second set of data (the query data) being delivered to a user interface and including queries regarding the display of the first set of data on the mobile device.

In view of the above, we believe it is clear that claim 1 is not obvious in view of the cited prior art. Similar considerations apply to independent claims 7, 17 and 33, while the dependent claims incorporate the subject matter of these claims and are therefore also novel and non-obvious.

Therefore, allowance of all pending claims at an early date is respectfully requested.

A Credit Card Payment is being submitted via EFS-Web authorizing payment in the amount of \$490.00, representing the fee for a large entity under 37 C.F.R. § 1.17(a)(2) for a two-month extension, and a Request for Extension of Time are enclosed. This amount is believed to be correct, however, the Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 14-0629.

Respectfully submitted,


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March 12, 2010
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